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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/647,736	10/04/2000	Caroline A M Lebre	36-1358	2449
23117	7590	08/25/2005	EXAMINER	
NIXON & VANDERHYE, PC 901 NORTH GLEBE ROAD, 11TH FLOOR ARLINGTON, VA 22203			CARDONE, JASON D	
			ART UNIT	PAPER NUMBER
			2145	

DATE MAILED: 08/25/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/647,736

Applicant(s)

LEBRE ET AL.

Examiner

Jason D. Cardone

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 06 June 2005.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-32 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-32 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

### **DETAILED ACTION**

1. In view of the response filed on 6/6/05, the restriction has been withdrawn based upon Applicants' response. Claims 1-32 are presented for further prosecution.

#### ***Claim Rejections - 35 USC § 101***

2. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

3. Claims 13-20 and 31 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. Claims 13 and 31 disclose a software entity. A software entity is not a tangible embodiment. Claim 21 discloses a signal for transmission, which is not a tangible embodiment. Therefore, claims 13-20 and 31 do not disclose statutory subject matter.

#### ***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1-32 are rejected under 35 U.S.C. 103(a) as being unpatentable over St. Clair, USPN 6,408,333, in view of Yuan, USPN 6,496,704.

6. Regarding claim 1, St. Clair discloses a method of processing data in a computing environment wherein a client and a server process data, the method comprising sending the server from a first place where it communicates with the client, through a computing environment towards a second different place to perform data processing therefrom [ie. portable server sent from one computer environment to another, St. Clair, col. 2, lines 20-35 and col. 4, line 50 – col. 5, line 31].

St. Clair does not specifically disclose that the portable server could be communicated through a distributed computing environment. However, Yuan, in the same field of endeavor, discloses a mobile host that could be communicated through a distributed computing environment [Yuan, col. 3, line 53 – col. 4, line 14]. It would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate the mobility of a server over communication lines, taught by Yuan, into the portable server, taught by St. Clair, in order to faster data transfers in a distributed computing environment.

7. Regarding claim 2, St. Clair substantially discloses the instant claimed invention. St. Clair does not specifically disclose freezing incoming calls for data processing to the server at the first place while it is being sent from the first place to the second place, and thereafter directing the frozen calls towards the second place to be processed by the server when it has become functional at the second place. However, Yuan, in the same field of endeavor, discloses disclose freezing incoming calls for data processing to the server at the first place while it is being sent from the first place to the second place,

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and thereafter directing the frozen calls towards the second place to be processed by the server when it has become functional at the second place [Yuan, col. 4, lines 15-42].

It would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate the mobility of a server over communication lines, taught by Yuan, into the portable server, taught by St. Clair, in order to faster data transfers in a distributed computing environment.

8. Regarding claim 3, St. Clair-Yuan further discloses waiting for the server to complete its current processing tasks before sending it to the second place [St. Clair, col. 2, lines 20-35] [Yuan, col. 4, lines 15-42].

9. Regarding claim 4, St. Clair-Yuan further discloses converting the server from an operational configuration at the first place into a configuration suitable for transmission through the distributed environment to the second place [St. Clair, col. 5, line 32 – col. 6, line 34] [Yuan, col. 3, line 53 – col. 4, line 14].

10. Regarding claim 5, St. Clair-Yuan further discloses the conversion comprises serialization of the server [St. Clair, col. 2, lines 20-35] [Yuan, col. 3, line 53 – col. 4, line 14].

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11. Regarding claim 6, St. Clair-Yuan further discloses creating a proxy for the server at the first place, which controls the sending of the server towards the second place [St. Clair, col. 5, line 32 – col. 6, line 34] [Yuan, col. 4, lines 15-42].

12. Regarding claim 7, St. Clair-Yuan further discloses sending the client towards a different place in the distributed computing environment [St. Clair, col. 4, line 50 – col. 5, line 31] [Yuan, col. 4, lines 15-42].


13. Regarding claims 8-32, claims 8-32 have similar limitations as claims 1-7. Therefore, they are rejected under St. Clair-Yuan for the same reasons set forth in the rejection of claims 8-32 [Supra 8-32].

### ***Conclusion***

14. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jason D. Cardone whose telephone number is (571) 272-3933. The examiner can normally be reached on Mon.-Thu. (6AM-3PM).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Valencia Martin-Wallace can be reached on (571) 272-6159. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Jason D Cardone  
Primary Examiner  
Art Unit 2145

August 21, 2005